IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
Writ Petition No.6368 of 1995

Dynandeo G. Gavand. .. Petitioner

Versus

Block Development Officer,
Panchayat Samiti Baramati,
and Others. .. Respondents

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Shri N.C.Walimbe for the petitioner.

Shri R.M.Patne, AGP for respondent No.3.

None for respondent Nos.1, 2 and 4.

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CORAM : R.M.S.KHANDEPARKAR &
SMT.R.S.DALVI, JJ.

DATED : 17TH MARCH, 2006

P.C.

1. The learned advocate for the petitioner, on instructions, states that the petitioner desires to withdraw the present petition with liberty to approach the appellate authority under the Maharashtra Zilla Parishad Service (Discipline and Appeal) Rules, 1964 and also requests that the authority may be directed

to condone the delay in filing the appeal in view of the fact that the petitioner was pursuing the writ remedy.

2. Though the question of giving direction to the appellate authority to condone the delay at this stage does not arise, however, the fact remains that the petitioner had been pursuing with the remedy of writ petition, and obviously the appellate authority, in case the appeal is filed along with the application for condonation of delay, will have to consider the provision of Section 14 of the Limitation Act, 1963 irrespective of the fact whether the provisions are applicable or not to the proceedings before the appellate authority. It is not the case that the petitioner had not taken any steps against the impugned order. The petitioner, in fact, had filed the writ petition and the same was admitted for final hearing. However, being now convinced of the availability of the appellate remedy, the petitioner craves leave to withdraw the petition in order to enable him to pursue appeal remedy. In the circumstances, needless to observe that the appellate authority, in case the appeal is filed along with the application for condonation of delay in filing the appeal, will have to consider the fact that the

petitioner was pursuing the remedy in writ petition for all these years.

3. With these observations, the petition is allowed to be withdrawn and stands disposed of accordingly. Rule stands discharged, with no order as to costs.

4. It is made clear that this Court has not expressed any opinion on any of the points sought to be raised by the petitioner in this petition.

(R.M.S.KHANDEPARKAR, J)

(SMT.R.S.DALVI, J)